

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

HERBERT JOHN LAKE, JR.,

Plaintiff,

v.

Case Number 10-10957

Honorable David M. Lawson

Magistrate Judge Virginia M. Morgan

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION, GRANTING
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, DENYING PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT, AFFIRMING THE DECISION TO
DENY BENEFITS AND DISMISSING THE PLAINTIFF'S COMPLAINT**

Presently before the Court is the report issued on January 3, 2011 by Magistrate Judge Virginia M. Morgan pursuant to 28 U.S.C. § 636(b). Magistrate Judge Morgan found that the Administrative Law Judge did not err by failing to afford complete deference to the plaintiff's treating physician and found that the treating physician's opinion was not entitled to substantial weight because it was not supported by correlating medical evidence and was contradicted by other medical evidence in the record. In addition, Magistrate Judge Morgan concluded that the hypothetical posed to the vocational expert adequately incorporated the evidence of the plaintiff's functional limitations in the record. As a result, she recommended that this Court deny the plaintiff's motion for summary judgment, grant the defendant's motion for summary judgment, affirm the decision denying disability benefits, and dismiss the plaintiff's complaint.

Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed. The parties' failure to file objections to the report and recommendation

waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the Magistrate Judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt #16] is **ADOPTED**.

It is further **ORDERED** that the defendant's motion for summary judgment [dkt #15] is **GRANTED**.

It is further **ORDERED** that the plaintiff's motion for summary judgment [dkt #11] is **DENIED**.

It is further **ORDERED** that the findings of the Commissioner are **AFFIRMED**.

It is further **ORDERED** that the plaintiff's complaint is **DISMISSED**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: January 25, 2011

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on January 25, 2011.

s/Susan K. Pinkowski
SUSAN K. PINKOWSKI